

Due Date: June 25, 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

REQUEST FOR REHEARING

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. §41.52, Appellants hereby request rehearing of the original decision of the Board mailed on April 23, 2007.

No fee is required for filing this Request for Rehearing. However, the Office is authorized to charge any necessary fees or credit any overpayments to Deposit Account Number 50-0494 of Gates & Cooper LLP.

The Decision on Appeal affirmed the rejections of the Examiner on all grounds. Appellants respectfully request a rehearing and reconsideration of their decision. Appellants resubmit the arguments set forth in the Appeal Brief and Reply Brief for the present matter. In addition,

Appellants submit that various points have been misapprehended or overlooked by the Board. Such points are set forth in detail below.

On page 4 of the Decision on Appeal, The Board submits:

...there are significant teachings and suggestions to the artisan that collaboration of modifying commands exist and are regularly transmitted at defined intervals among the responsive collaborators in Brown. Because of the extensive dialog depicted among the various parts of flow chart figure 2 comprising figures 2A through 2G, the artisan would have readily concluded that there are significant dialogs between the collaborators in Brown that substantially teach heartbeat commands in other words that are regularly transmitted at defined intervals to the extent claimed.

Appellants respectfully traverse and disagree with such an assertion. Rather than suggesting that regular commands are transmitted in Brown, Appellants note that commands are not transmitted at regularly defined intervals but only based on the occurrence of user initiated actions. For example, Brown's first command is transmitted when a word processing program is opened on a remote computer and the user selects a master copy to open for editing (see step 215 of FIG. 2A). After determining if a control file is locked or unlocked, a record within the master copy is created for the user and a duplicate copy of the master is copied to the user's local memory (see FIG. 2B). The user then edits the local copy as desired. Not until the user initiates the save of any edits is an additional command transmitted (see box 260 of FIG. 2B). Accordingly, rather than regularly transmitting commands at defined intervals (as claimed), the user must initiate a particular action in order for a command to be sent. FIGs. 2C-2G continue with such user initiated based actions and command transmissions.

In view of the above, Appellants submit that the Board overlooked Brown's commands and how all of the commands are based on user initiated actions and are not regularly transmitted at defined intervals as set forth in the present claims.

The Decision continues on page 4 and submits that Caronni confirms Brown's teaching and describes heartbeat commands. While Appellants agree that Caronni describes the use of heartbeat commands, one must examine the context in which such commands are transmitted. In this regard, Carroni uses heartbeat commands to maintain a secure connection. During the secure connection is when content and multicast messages may be transmitted. However, multicast communications are not sent via Caronni's heartbeat commands. Instead, Caronni is silent about how to transmit

multicast messages and content. Instead, Caronni is merely concerned with maintaining a secure connection for transmitting messages. Such a secure connection is enabled by exchanging keys in a particular manner via heartbeat commands. But again, Caronni's description completely fails to teach, disclose, or suggest, explicitly or implicitly, the exchange of content or multicast messages via such heartbeat commands. Should Caronni have been concerned or even slightly anticipated the use of heartbeat commands to transmit messages, Caronni could have explicitly so stated.

Further, Caronni is concerned with applications with a small number of sending parties and a large dynamically changing group of receiving parties (or vice versa) and is interested in a group of people communicating with each other (see col. 1, lines 20-50). Such a teaching is not similar to nor does it attempt to address the collaboration among users over a drawing document wherein updates are automatically transmitted in the background as claimed (i.e., in the form of heartbeat commands).

The Decision continues on page 5 and asserts that Brown operates for simultaneous multi-user editing of a master copy of a document. The Decision provides that Brown col. 2, lines 47-65 emphasizes the need to synchronize or otherwise maintain heartbeat type commands regularly transmitted between the collaborator terminals. The Decision further provides that such text also teaches the need for a reconciliation process among the local copies of a given document copied from a shared server. Appellants respectfully disagree with and traverse such an assertion. Rather than teaching the need to maintain heartbeat command regularly transmitted, such text explicitly states that Brown's MCF "coordinates the synchronization of the various versions of the document during the reconciliation process that is performed when a local copy of the document is being saved and is not yet up to date with the master copy of the document on the shared server..." Thus, rather than suggesting the regularly transmitted heartbeat commands at defined intervals, such text of Brown expressly states that such commands are performed NOT at defined intervals but during the reconciliation process when a document is being SAVED. In this regard, Brown would actually serve to teach away from the teaching of the present invention.

II. CONCLUSION

In light of the above arguments, Appellants respectfully submit that the Board has misapprehended or overlooked various points that serve to differentiate the present invention from the cited references. Appellants further submit that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellants' claims recite novel physical features that patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103. As a result, Appellants respectfully request reconsideration and a rehearing of the decision by the Board of Patent Appeals and Interferences. Appellants further respectfully request that the Board reverse the Examiner and direct allowance of the pending claims in the subject application.

Respectfully submitted,

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